

Commission's current orbital assignments or the Commission's existing 2° spacing policy. As set forth above, the Commission never has restricted the locations from which a satellite operator can provide either domestic or international service.^{32/} There is no reason why the Commission should not follow the approach of requiring applicants to base their orbital assignment requests on their desired service area, minimum elevation requirements, and need for back-up capacity. Moreover, although it may be possible for satellites whose coverage patterns are spatially separated to be located less than 2° apart, HCG does not believe that there is any basis for modifying the 2° spacing policy at this time.^{33/}

Nor does HCG believe that the proposed regulatory streamlining will substantially change U.S. coordination requirements with systems from other countries. Those coordination requirements flow from the coverage patterns of U.S. satellites, regardless of whether those satellites are licensed by the U.S. as "domestic," "separate systems," or both. The ITU does not take into account the regulatory classification of U.S. satellites in addressing frequency coordination. Thus, allowing domestic satellites to provide any service that they are capable of providing within their existing coverage beams and within the technical and operating parameters already coordinated should not change U.S. coordination requirements for in-orbit satellites. Of course, any unlaunched U.S. satellites still will need to be coordinated for all areas within their coverage beams. Finally, to the extent that operators make changes in the technical parameters of already coordinated but

^{32/} See note 17 supra.

^{33/} For example, if an applicant requests authority to locate an additional satellite between existing satellites spaced 2° apart, the Commission can address such a request on a case-by-case basis on an appropriate showing of non-interference with adjacent satellites.

unlaunched satellites to take into account the proposed regulatory streamlining, modifications to existing ITU filings may be required, as may be the case for many other technical changes.^{34/}

^{34/} HCG notes that its affiliate, DIRECTV, Inc., is filing comments in this proceeding addressing the Commission's questions relating to the extent to which the Commission should apply its proposal to direct broadcast satellites. (Notice ¶¶ 37-38.)

The Commission also raises a number of questions regarding how it should treat non-U.S.-licensed satellites. Specifically, the Commission questions whether, and under what conditions, it should permit non-U.S.-licensed satellites to serve the domestic United States, and whether it should impose the more rigorous technical requirements applicable to U.S.-licensed satellites, such as 2° spacing, on those satellites serving the United States. (Notice ¶ 39.) Issues relating to access to the U.S. market by foreign satellite systems, and the provision of service from foreign countries whose markets are closed to U.S. providers, currently are being resolved in proceedings that more directly address the need to ensure that U.S. companies have equivalent competitive opportunities abroad. Two such proceedings now are underway at the Commission, and to ensure consistency with the results of those proceedings, the Commission should review these issues in either or both of those dockets and, to the extent necessary, initiate a new proceeding to develop these issues further. See Market Entry and Regulation of Foreign-Affiliated Entities, IB Docket No. 95-22, RM-8355, RM-8392, FCC 95-51 (released Feb. 17, 1995); Transborder Authorization of AT&T Corp. To Provide Canadian Direct-to-Home Satellite Services to the United States, FCC File No. 107-SAT-MISC-95 (petition for declaratory ruling filed Apr. 24, 1995). Moreover, the Commission has the authority to review on a case-by-case basis situations in which U.S. licensees may be deprived of equivalent competitive opportunities abroad. In any event, as a practical matter, the Commission cannot impose its technical requirements, such as 2° spacing, on other countries. See Separate Systems, 101 F.C.C.2d at 1168.

CONCLUSION

For the foregoing reasons, the Commission should adopt its proposal to eliminate the transborder policy and to treat all U.S.-licensed FSS satellites under a single regulatory scheme in which they can provide a full range of domestic and international services without the need to obtain additional FCC authorizations. In addition, the Commission should adopt its proposals with respect to financial qualifications, regulatory classifications, and earth station licensing.

Respectfully submitted,

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June 8, 1995

CERTIFICATE OF SERVICE

I hereby certify that I have this 8th day of June, 1995, caused copies of the foregoing "Comments of Hughes Communications Galaxy, Inc." to be served by hand on the following:

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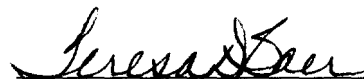
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